



Department of Public Advocacy

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Public Advocate testifies before Joint Judiciary on state of Kentucky's public defense

2016 Public Defense Annual Litigation Report released – Public defense provides public value

FRANKFORT, KY (Nov. 4, 2016) – “The value that public defenders provide to Kentucky’s citizens adds to its wealth in uncommon ways,” Public Advocate Ed Monahan reported to the Joint Judiciary Committee today on the state of Kentucky’s statewide public defense program. “From the district and circuit courts in all 120 counties to the Court of Appeals and the Kentucky Supreme Court, our work ensures the system of law is balanced and fair for all those who come before it,” Monahan, Commissioner of the Department of Public Advocacy (DPA), Kentucky’s statewide public defender program, said.

DPA is a workhorse of state government. In fiscal year 2016, courts in every county appointed DPA to represent clients in more than 158,000 trial and appellate cases. Statewide, DPA’s trial case appointments increased 2.9 percent over the prior year. This is up from 137,923 cases in 2006. Like the Department of Corrections, DPA has no ability to control its workload. Monahan said, “We proudly defend them all – with our all. We do not pick and choose. We do not turn anyone away. We do not leave anyone behind.”

Monahan began his presentation by expressing his appreciation to the General Assembly and to Gov. Matt Bevin for their support of the department. With the funding and support provided, DPA employs more than 500 public servants, including 300 public defenders who serve the Commonwealth by providing quality legal representation to those who cannot afford to hire a private attorney.

Monahan described to the Joint Judiciary Committee members DPA’s high return on investment, “Every client is appointed a well-trained lawyer to stand with him or her to defend against the state’s allegations. Every day, Kentucky defenders protect clients from the overreach of the government by working to enforce liberties guaranteed to every person by our Bill of Rights. DPA accomplishes this with a structure that squeezes as much as possible out of a limited amount of money. With funding of \$267 per trial level case in fiscal year 16, DPA has a high return on investment.”

In fiscal year 2016 (July 1, 2015 through June 30, 2016), Monahan said, there were 157,853 new court-ordered case appointments in district and circuit courts. The fiscal year 2016 case appointments included 9,190 juvenile cases, 3,420 involuntary commitment cases, 55 death eligible cases, and 211 original briefs on appeal in the Court of Appeals or the Supreme Court of Kentucky. DPA’s award-winning Alternative Sentencing Program presented 2,215 alternative sentencing plans for persons with substance abuse or a mental illness who would otherwise be sentenced to prison. Of these, 1,400 plans were granted with community based treatment instead of a costly prison sentence. For every dollar spent on the DPA alternative sentencing program, there was a savings to the state of \$5.66 that would have been spent elsewhere. Over \$11 million in prison costs were saved in fiscal year 2016 as a result of this nationally recognized work.

Monahan testified to the substantial financial benefits to counties, the state, and Kentucky taxpayers when public defense systems are properly funded. Public defenders who are competent, who have manageable workloads, and who have professional independence make certain that the rights guaranteed by our Constitution are protected and ensure that no one's liberty is taken unless proven guilty. Kentucky's public defenders safely lower costly incarceration rates by:

- being present at first appearances and advocating for pretrial release;
- advocating for reduced sentences based on the facts of the case;
- developing alternative sentencing options that avoid incarceration and provide treatment;
- assisting clients upon adjudication with reentry needs including, employment and housing; and
- preventing expensive wrongful convictions.

Excessive workloads, inadequate compensation for private attorneys doing conflict representation and inadequate compensation of staff remain DPA's most significant challenges. With actual average new cases opened of 460 per trial attorney, DPA average caseloads per office exceed the national standards by 55 percent.

"Workloads of attorneys who represent indigent clients must be reduced to ethical levels if we are going to ensure the criminal justice system operates to protect the public. That is not being achieved with current workloads. And we have to adequately compensate the hundreds of private attorneys so they are able to have the time to properly represent their clients," according to Jerry J. Cox, Chair of the Public Advocacy Commission, which is the governing board for DPA with the responsibility to ensure the department's professional independence. "Just as pressing are the low salaries of our DPA staff that cause costly turnover. It does cost more to pay less."

In addition to public defense, the Protection and Advocacy Division (P&A) of DPA provided information on referrals to individuals with disabilities, family members, and service providers in 1,721 cases. P&A provided legal advocacy to 522 individuals with disabilities and monitored 65 facilities.

Jeff Edwards, the Director of the Protection and Advocacy Division, said, "Kentucky Protection and Advocacy and our advisory bodies are committed to empowering Kentuckians with disabilities so they have access to the same opportunities as other Kentuckians."

DPA's Annual Litigation Report for July 1, 2015 through June 30, 2016 is an account of the public value of public defense, one client at a time. It was distributed to the members of the Joint Judiciary Committee. It was published through generous donations of Public Advocacy Commission members. The report can be found online at: <http://dpa.ky.gov>

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